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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,219	04/24/2001	Robert Mann	6311-9	6403

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EXAMINER

TARAE, CATHERINE MICHELLE

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/841,219

Applicant(s)

MANN ET AL.

Examiner

C. Michelle Tarae

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 57-73 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 57-73 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 11, 2006 has been entered.

Claims 1-56 have been canceled. Claims 57-73 have been added. Claims 57-73 are now pending in this application.

### ***Response to Amendments***

2. Applicant's amendments canceling claims 1-56 and adding 57-73 are acknowledged.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 57-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bracken et al., "High-tech 360" and Berstis et al. (U.S. 6,901,367).

As per claim 57, Bracken et al. discloses a computer-implemented method for providing performance measurement of multiple evaluatees, wherein the method comprises:

evaluators accessing an online performance measurement program on a distributed network access device (paragraphs 2 and 5; The system consists of an Internet-based 360 degree performance evaluation survey, which users complete online.) ;

the evaluators electing to complete at least one online 90 degree or 360 degree evaluation for an evaluatee (paragraphs 3 and 4; Users are given instructions for selecting and completing the online evaluation.);

providing the evaluators completing the elected evaluations with evaluation forms (paragraphs 3 and 4; Users complete self evaluations as well as evaluations on their boss, peers and their staff.);

aggregating the results of the evaluations for each evaluatee (paragraph 4; Results of the evaluations are collected and aggregated into feedback reports.); and

sending feedback relating to the evaluation to each evaluatee (paragraphs 15 and 16; Evaluatees are provided feedback reports relating to their evaluation.).

Bracken et al. does not expressly disclose providing the evaluations to evaluators/evaluatees in their native language. However, Bracken et al. does disclose goals of its Internet-based performance evaluation system being to provide transnational data accessibility (paragraph 25) as well as to give evaluators and evaluatees feedback on their ratings (paragraphs 14-16). Berstis et al. discloses

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automatically translating incoming communication such as emails and files to a language desired by a recipient of the incoming communication (col. 2, lines 31-37; col. 4, lines 25-35 and 48-53). At the time of the invention, it would have been obvious to a person of ordinary skill in the art for the evaluation system of Bracken et al. to provide the evaluations to the evaluators/evaluatees in their native language as disclosed by the system of Berstis et al. because doing so would ensure that employees (both evaluators and evaluatees) readily understand the content of their evaluations, which supports the goals of the system of Bracken et al. as discussed above. For example, if evaluators/evaluatees cannot read their evaluations, then data accessibility is hindered, not enhanced, and feedback is not effectively conveyed. Thus, providing evaluations to evaluators/evaluatees in their native languages enhances the evaluation system by ensuring that evaluators/evaluatees are at least able to read their evaluations, which helps the system of Bracken et al. to achieve the goals of its performance evaluation system. The performance evaluation system would not be effective if the evaluators or evaluatees could not read their evaluations.

As per claims 58 and 61, Bracken et al. discloses the method of claim 57 additionally comprising listing on a to do list outstanding tasks relating to completion of the performance measurement for each evaluatee; or listing completed tasks for the performance measurement (paragraphs 4, 6 and 9; Supervisors create up front the parameters for evaluators to complete evaluations, including which evaluations to perform, specified timeframes and deadlines for each evaluation, etc. Thus, supervisors, in essence, create "to do" lists for evaluators. The "to do" lists are

recognized by the system (where the “to do” list includes completing evaluations by certain deadlines) as supervisors would not be notified via email and raters wouldn’t be reminded via email to perform the outstanding task of completing an evaluation.).

As per claims 59 and 60, Bracken et al. does not expressly disclose the method of claim 57 additionally comprising linking compensation or promotion processes to the evaluation. However, Bracken et al. does disclose using the evaluation to determine pay increases and promotions (paragraph 29). At the time of the invention, it would have been obvious to a person of ordinary skill in the art for the system of Bracken et al. to link compensation and promotion processes to the evaluation as doing so would provide convenient and easy access to such information for evaluators and evaluatees alike, thereby enhancing the accessibility of data, which is a goal of the system of Bracken et al. (paragraph 25).

5. Claims 62-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bracken et al., “High-tech 360” and Berstis et al. (U.S. 6,901,367), and further in view of Fethe (U.S. 5,926,794).

As per claims 62-64, Bracken et al. discloses a system for providing a performance evaluation, comprising:

an interface module, said interface module presenting to an evaluator an evaluation form, said evaluator inputting evaluation information regarding an evaluatee into said evaluation form (paragraphs 2 and 5; The system consists of an Internet-based 360 degree performance evaluation survey, which users complete online.); and

a feedback generator retrieving said evaluation information and placing said evaluation information into a feedback form (paragraph 4; The system collects evaluation data and creates feedback forms.);

wherein said interface module presents feedback form to said evaluatee (paragraphs 4, 15 and 16; Evaluatees are provided feedback reports relating to their evaluation.).

Bracken et al. does not expressly disclose providing the evaluations to evaluators/evaluatees in their native language. However, Bracken et al. does disclose goals of its Internet-based performance evaluation system being to provide transnational data accessibility (paragraph 25) as well as to give evaluators and evaluatees feedback on their ratings (paragraphs 14-16). Berstis et al. discloses automatically translating incoming communication such as emails and files to a language desired by a recipient of the incoming communication (col. 2, lines 31-37; col. 4, lines 25-35 and 48-53). At the time of the invention, it would have been obvious to a person of ordinary skill in the art for the evaluation system of Bracken et al. to provide the evaluations to the evaluators/evaluatees in their native language as disclosed by the system of Berstis et al. because doing so would ensure that employees (both evaluators and evaluatees) readily understand the content of their evaluations, which supports the goals of the system of Bracken et al. as discussed above. For example, if evaluators/evaluatees cannot read their evaluations, then data accessibility is hindered, not enhanced, and feedback is not effectively conveyed. Thus, providing evaluations to evaluators/evaluatees in their native languages enhances the evaluation system by

ensuring that evaluators/evaluatees are at least able to read their evaluations, which helps the system of Bracken et al. to achieve the goals of its performance evaluation system. The performance evaluation system would not be effective if the evaluators or evaluatees could not read their evaluations.

Bracken et al. also does not expressly disclose an evaluation data database for storing the evaluation information. However, Bracken et al. does disclose a human resources database for storing employee data such as names, department, location, etc. (paragraph 26). Fethe discloses an evaluation database for storing evaluation information (col. 6, lines 31-34; col. 8, lines 54-58). At the time of the invention, it would have been obvious to a person of ordinary skill in the art for the evaluation system of Bracken et al. to utilize an evaluation database as disclosed by Fethe since Bracken et al. already utilizes a database for storing general employee information and since Bracken et al. supports the use of databases to streamline and make more efficient the evaluation process (Bracken et al., paragraph 26). Thus, an evaluation database would further add to the efficiency and accuracy promoted by the system of Bracken et al.

As per claims 65-67, Bracken et al. discloses the system of claim 62, further comprising monitoring said evaluation information and generating status information regarding said performance evaluation, wherein the status information is to do information and completion data information (paragraphs 4, 6 and 9; The system automatically distributes and collects evaluations to be completed. Supervisors are notified by email if raters haven't completed the evaluations within a certain time, wherein the to do item is to complete the evaluation.). However, Bracken et al. does not



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expressly disclose an evaluation data database, the analysis of which is provided above.

Claims 68-73 recite substantially similar subject matter to claims 62-67 above. Therefore, claims 68-73 are rejected on the same basis as claims 62-67 above.

### ***Response to Arguments***

6. Applicant's arguments have been addressed within the analyses of the new grounds of rejections provided above.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Michelle Tarae (formerly, C. Michelle Colon) whose telephone number is 571-272-6727. The examiner can normally be reached Monday – Friday from 8:30am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached at 571-272-6729.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, reading "C. Michelle Tarae". The signature is fluid and cursive, with the first name "C." and last name "Tarae" clearly visible.

C. Michelle Tarae  
Patent Examiner  
Art Unit 3623

March 23, 2006